IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 18441 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SAMA ALANA HAJI HASAN & 14 - Petitioner(s)
Versus
STATE OF GUJARAT & 4 - Respondent(s)

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Appearance :

MR KIRTIDEV R DAVE for Petitioner(s) : 1 - 15.MR RAHUL K DAVE for Petitioner(s) : 1 - 15.
MR. M.R.MENGDEY, ASST. GOVERNMENT PLEADER for Respondent(s) : 1,
None for Respondent(s) : 2 - 5.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 28/10/2005

ORAL JUDGMENT

1.By way of this petition under Articles 226 and 227 of the Constitution of India, the petitioners have prayed for an appropriate writ, order and/or direction holding that the order of declaring the

land in question as mentioned in the Notification dated 28th February, 1986, as bad in law.

2. It appears from the record that by Notification dated 28th February, 1986 in exercise of powers under Section 18 of the Wild Animal Protection Act; 1972 (53 of 1972), the Government of Gujarat has declared certain ares of Kachchh big desert of Kachchh District as the Kachchh desert wild animal sanctuary. It is the contention on behalf of the petitioners that some of the petitioners are either former Sarpanch or Deputy Sarpanch and others are the leaders of their area and villages and all the villages are around the Kala Dungar in Mota Rann of Kachchh. It is the contention on behalf of the petitioners that the lands for which the Notification dated 28th February, 1986 is issued includes more than 30 villages including their gamtal and agricultural land and it is their contention that procedure as required under Section 19 and other procedures as required under Sections 19 to 25 of the Wild Life (Protection) Act; 1972

(herein after referred to as “the Act”) has not been followed and the Collector was required to complete the proceedings within a period of 2 years and that no such proceedings have been initiated so far and in the meantime, the position of the land has been changed and certain new rights have been created in favour of other persons. It is further submitted that the dispute of the ownership with regard to some of the lands, is pending before this Court by way of Special Civil Application No.5128 of 1995.

3.Affidavit-in-reply is filed on behalf of the State Government opposing the present Special Civil Application and it is submitted that the Notification dated 28th February, 1986 came to be issued under the provisions of Section 18 of the Act declaring certain areas of Kachchh District as Wile Life Sanctuary and pursuant to the said Notification, the Collector had issued proclamation under Section 19 of the Act on 16th December, 1986 calling upon the persons interested in the land

covered in the Sanctuary as declared by Notification dated 28th February, 1986 to present their claims. However, since the area covered by the Notification was very wide, the proceeding as prescribed under the Act for survey settlement could not be completed within the period of 2 years after the publication of the proclamation under Section 19 of the Act. It is submitted that the land admeasuring 14371 – Hectors and 41-Ares of Taluka Bhuj, Khavda area (Kala-Dunger) is covered by the Notification issued by the State Government on 28th February, 1986. It is further submitted that the petitioners herein have not approached the authorities with their claims pursuant to the proclamation dated 16th December, 1986 and therefore, it is requested to dismiss the present Special Civil Application.

4. Heard the learned advocates appearing on behalf of the parties.

5. It is not in dispute that the Notification under

Section 18 of the Act has also been issued declaring certain ares of Kutchchh District as Wild Life Sanctuary and thereafter, the Collector has issued proclamation under Section 19 of the Act calling upon the persons interested in the land covered in the Sanctuary to present their claims and it is the contention on behalf of the respondent – Collector that the petitioners have not submitted their claims. However, it is required to be noted that the competent authority was required to complete the survey settlement within the period of 2 years after the publication of the proclamation under Section 19 of the Act, which is not done till date. However, as stated in the affidavit-in-reply, looking to the vast area covered under the Sanctuary, the said proceedings could not be completed. Under the circumstances, let all the petitioners submit their claims before the competent authority as early as possible i.e. on or before 30th June, 2006 and thereafter, within a period of 6 months, the competent authority is directed to complete the proceedings as required

under the provisions of the Wild Life Act. The aforesaid direction is issued as it will be in the interest of public at large to have the Wild Life Sanctuary in the Rann of Kutchchh and one additional opportunity is also required to be given to the State Government to complete the proceedings.

6.With these observations and directions, the present Special Civil Application is disposed of.

(M.R.SHAH, J.)

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